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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-220

13 **TERRY ALAN JOINER**

14 506 W. Robert Street  
15 Hammond, LA 70401

**DEFAULT DECISION AND ORDER**

16 Registered Nurse License No. 664676

[Gov. Code, §11520]

17 Respondent.

18  
19 **FINDINGS OF FACT**

20 1. On or about September 27, 2012, Complainant Louise R. Bailey, M.Ed., R.N., in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs, filed Accusation No. 2013-220 against Terry Alan Joiner (Respondent) before  
23 the Board of Registered Nursing. (Accusation attached as Exhibit A.)

24 2. On or about August 29, 2005, the Board of Registered Nursing (Board) issued  
25 Registered Nurse License No. 664676 to Respondent. The Registered Nurse License expired on  
26 August 31, 2011, and has not been renewed.  
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1           3.     On or about September 27, 2012, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 2013-220, Statement to Respondent, Notice of Defense,  
3 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
4 and 11507.7) at Respondent's address of record which, pursuant to California Code of  
5 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.  
6 Respondent's address of record was and is:

7 506 W. Robert Street  
8 Hammond, LA 70401.

9           4.     Service of the Accusation was effective as a matter of law under the provisions of  
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
11 124.

12           5.     As of October 29, 2012, neither the Certified Mail nor the First Class mail were  
13 returned as underliverable.

14           6.     Government Code section 11506 states, in pertinent part:

15                 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
16 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
17 of the accusation not expressly admitted. Failure to file a notice of defense shall  
18 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
19 may nevertheless grant a hearing.

20           7.     Respondent failed to file a Notice of Defense within 15 days after service upon him  
21 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
22 2013-220.

23           8.     California Government Code section 11520 states, in pertinent part:

24                 (a) If the respondent either fails to file a notice of defense or to appear at the  
25 hearing, the agency may take action based upon the respondent's express admissions  
26 or upon other evidence and affidavits may be used as evidence without any notice to  
27 respondent.

28           9.     Pursuant to its authority under Government Code section 11520, the Board finds  
Respondent is in default. The Board will take action without further hearing and, based on the  
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
taking official notice of all the investigatory reports, exhibits and statements contained therein on

1 file at the Board's offices regarding the allegations contained in Accusation No. 2013-220, finds  
2 that the charges and allegations in Accusation No. 2013-220, are separately and severally, found  
3 to be true and correct by clear and convincing evidence.

4 10. Taking official notice of its own internal records, pursuant to Business and  
5 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
6 and Enforcement is \$952.50 as of October 29, 2012.

7 **DETERMINATION OF ISSUES**

8 1. Based on the foregoing findings of fact, Respondent Terry Alan Joiner has subjected  
9 his Registered Nurse License No. 664676 to discipline.

10 2. The agency has jurisdiction to adjudicate this case by default.

11 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered  
12 Nurse License based upon the following violations alleged in the Accusation which are supported  
13 by the evidence contained in the Default Decision Evidence Packet in this case.:

14 a. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) of  
15 the Code in that on or about February 8, 2011, Respondent was disciplined by the Louisiana State  
16 Board of Nursing ("Louisiana Board") when the Louisiana Board issued a letter to Respondent  
17 immediately suspending Respondent's license to practice nursing in that state. The circumstances  
18 underlying the disciplinary action are that on or about June 19, 2009, Respondent entered into a  
19 three year Recovering Nurse Program ("RNP") Program Agreement with the Louisiana Board.  
20 The Program Agreement provided that his Louisiana license be retained contingent upon  
21 adherence to stipulations of the RNP. Respondent was not in compliance with terms of the  
22 Program Agreement. Specifically, on January 11, 2011, he submitted to a random drug screen  
23 which returned positive for Meperidine (Demerol). On January 18, 2011, when notified by  
24 Louisiana Board staff, Respondent admitted to using Meperidine (Demerol) intravenously. On  
25 January 20, 2011, Respondent was informed by Certified Mail/Return Receipt Requested that he  
26 must submit to a comprehensive inpatient relapse evaluation or enter residential treatment. The  
27 Respondent was to notify the Board of his plans within ten days. As of February 8, 2011, the  
28 Respondent did not contact the Louisiana Board. On or about May 21, 2002, the Board approved

1 a Consent Order placing the Respondent's license on a probationary period for a minimum of  
2 twelve months, with terms and conditions, in the disciplinary matter entitled *In the Matter of:*  
3 *Terry Alan Joiner*. The circumstances underlying the disciplinary action are that on or about  
4 October 5, 2000, a complaint was received from Lakeview Regional Medical Center ("LRMC")  
5 in Covington, Louisiana. The complaint alleged that on August 9, 2000, while employed as a  
6 registered nurse in the Intensive Care Unit facility, Respondent verbally abused a post-operative  
7 Coronary Artery Bypass Graft ("CABG") patient on a ventilator. The complaint more  
8 specifically alleged that the patient was combative during his bed bath and that the Respondent,  
9 while assisting two other nurses to re-secure the restraints, cursed at the patient in a threatening  
10 manner and roughly pushed him down on the bed. On or about August 10, 2000, Respondent was  
11 terminated from LRMC.

12 b. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the  
13 Code on the grounds of unprofessional conduct in that on or about January 11, 2011, Respondent  
14 tested positive for Meperidine (Demerol) in violation of the RNP Program Agreement. The  
15 conduct is described in more particularity in paragraph 11 above, inclusive and hereby  
16 incorporated by reference. The conduct is described in more particularity in Accusation No.  
17 2013-220 hereby incorporated by reference.

18 c. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the  
19 Code on the grounds of unprofessional conduct in that on or about August 9, 2000, Respondent  
20 verbally abused a post-op CABG patient on a ventilator. The conduct is described in more  
21 particularity in Accusation No. 2013-220 hereby incorporated by reference.

22 d. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the  
23 Code as defined in section 2762, subdivision (b) of the Code in that on or about January 11, 2011,  
24 Respondent used Meperidine (Demerol) to an extent or in a manner dangerous or injurious to  
25 himself, others or the public or to the extent that such use impairs his or her ability to conduct  
26 with safety to the public the practice of registered nursing. The transgression is described in more  
27 particularity in Accusation No. 2013-220 hereby incorporated by reference.

1 e. Respondent is subject to disciplinary action under section 2761, subdivision (d) of the  
2 Code in that Respondent committed violations of the Nursing Practice Act. The violations are  
3 described in more particularity in Accusation No. 2013-220 hereby incorporated by reference.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 664676, heretofore issued to Respondent Terry Alan Joiner, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on February 15, 2013.

It is so ORDERED January 16, 2013

  
FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

51184914.DOC  
DOJ Matter ID:LA2012507694

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 KATHERINE MESSANA  
Deputy Attorney General  
4 State Bar No. 272953  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2554  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. *2013-220*

11 **TERRY ALAN JOINER**

12 506 W. Robert Street  
13 Hammond, LA 70401

14 Registered Nurse License No. 664676

15 Respondent.

**A C C U S A T I O N**

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about August 29, 2005, the Board of Registered Nursing issued Registered  
23 Nurse License Number 664676 to Terry Alan Joiner ("Respondent"). The Registered Nurse  
24 License expired on August 31, 2011, and has not been renewed.

25 **JURISDICTION AND STATUTORY PROVISIONS**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code ("Code") unless otherwise indicated.



1           4.     Section 2750 of the Code provides, in pertinent part, that the Board may discipline  
2 any licensee, including a licensee holding a temporary or an inactive license, for any reason  
3 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4           5.     Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
5 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
6 licensee or to render a decision imposing discipline on the license. Section 2811(b) of the Code  
7 provides, in pertinent part, that the Board may renew an expired license at any time within eight  
8 years after the expiration.

9           6.     Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
10 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
11 disciplinary action during the period within which the license may be renewed, restored, reissued  
12 or reinstated.

13          7.     Section 2761 of the Code states:

14                 "The board may take disciplinary action against a certified or licensed  
15 nurse or deny an application for a certificate or license for any of the following:

16                 (a) Unprofessional conduct, which includes, but is not limited to, the  
17 following:

18                 ...

19                 (4) Denial of licensure, revocation, suspension, restriction, or any other  
20 disciplinary action against a health care professional license or certificate by another  
21 state or territory of the United States, by any other government agency, or by another  
22 California health care professional licensing board. A certified copy of the decision  
23 or judgment shall be conclusive evidence of that action.

24                 ...

25                 (d) Violating or attempting to violate, directly or indirectly, or assisting  
26 in or abetting the violating of, or conspiring to violate any provision or term of this  
27 chapter [the Nursing Practice Act] or regulations adopted pursuant to it."

28          8.     Section 2762 of the Code states, in pertinent part:

                  "In addition to other acts constituting unprofessional conduct within the  
meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a  
person licensed under this chapter to do any of the following:

                  ...

                  (b) Use any controlled substance as defined in Division 10 (commencing

with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license."

### **COST RECOVERY**

9. Section 125.3 of the Code provides:

"(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licentiate that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licentiate to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licentiate who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licentiate who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board

recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

(k) Notwithstanding the provisions of this section, the Medical Board of California shall not request nor obtain from a physician and surgeon, investigation and prosecution costs for a disciplinary proceeding against the licensee. The board shall ensure that this subdivision is revenue neutral with regard to it and that any loss of revenue or increase in costs resulting from this subdivision is offset by an increase in the amount of the initial license fee and the biennial renewal fee, as provided in subdivision (e) of Section 2435."

#### **FIRST CAUSE FOR DISCIPLINE**

##### **(Disciplinary Action by the Louisiana State Board of Nursing)**

10. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) of the Code in that Respondent was disciplined by the Louisiana State Board of Nursing ("Louisiana Board"), as follows:

11. On or about February 8, 2011, the Louisiana Board issued a letter to Respondent immediately suspending Respondent's license to practice nursing in that state. The circumstances underlying the disciplinary action are that on or about June 19, 2009, Respondent entered into a three year Recovering Nurse Program ("RNP") Program Agreement with the Louisiana Board. The Program Agreement provided that his Louisiana license be retained contingent upon adherence to stipulations of the RNP. Respondent was not in compliance with terms of the Program Agreement. Specifically, on January 11, 2011, he submitted to a random drug screen which returned positive for Meperidine (Demerol). On January 18, 2011, when notified by Louisiana Board staff, Respondent admitted to using Meperidine (Demerol) intravenously. On January 20, 2011, Respondent was informed by Certified Mail/Return Receipt Requested that he must submit to a comprehensive inpatient relapse evaluation or enter residential treatment. The Respondent was to notify the Board of his plans within ten days. As of February 8, 2011, the Respondent did not contact the Louisiana Board.

12. On or about May 21, 2002, the Board approved a Consent Order placing the Respondent's license on a probationary period for a minimum of twelve months, with terms and conditions, in the disciplinary matter entitled *In the Matter of: Terry Alan Joiner*.<sup>1</sup> The circumstances underlying the disciplinary action are that on or about October 5, 2000, a complaint was received from Lakeview Regional Medical Center ("LRMC") in Covington, Louisiana. The complaint alleged that on August 9, 2000, while employed as a registered nurse in the Intensive Care Unit facility, Respondent verbally abused a post-operative Coronary Artery Bypass Graft ("CABG") patient on a ventilator. The complaint more specifically alleged that the patient was combative during his bed bath and that the Respondent, while assisting two other nurses to re-secure the restraints, cursed at the patient in a threatening manner and roughly pushed him down on the bed. On or about August 10, 2000, Respondent was terminated from LRMC.

#### **SECOND CAUSE FOR DISCIPLINE**

##### **(Unprofessional Conduct)**

13. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the Code on the grounds of unprofessional conduct in that on or about January 11, 2011, Respondent tested positive for Meperidine (Demerol) in violation of the RNP Program Agreement. The conduct is described in more particularity in paragraph 11 above, inclusive and hereby incorporated by reference.

14. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the Code on the grounds of unprofessional conduct in that on or about August 9, 2000, Respondent verbally abused a post-op CABG patient on a ventilator. The conduct is described in more particularity in paragraph 12 above, inclusive and hereby incorporated by reference.

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<sup>1</sup> On or about June 22, 2005, Respondent completed the Probation as ordered by the Louisiana Board's May 21, 2002, Consent Order.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Drug Related Transgressions)**

3 15. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the  
4 Code as defined in section 2762, subdivision (b) of the Code in that on or about January 11, 2011,  
5 Respondent used Meperidine (Demerol) to an extent or in a manner dangerous or injurious to  
6 himself, others or the public or to the extent that such use impairs his or her ability to conduct  
7 with safety to the public the practice of registered nursing. The transgression is described in more  
8 particularity in paragraph 11 above, inclusive and hereby incorporated by reference.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Violations of the Nursing Practice Act)**

11 16. Respondent is subject to disciplinary action under section 2761, subdivision (d) of the  
12 Code in that Respondent committed violations of the Nursing Practice Act. The violations are  
13 described in more particularity in paragraphs 10 through 15 above, inclusive and hereby  
14 incorporated by reference.

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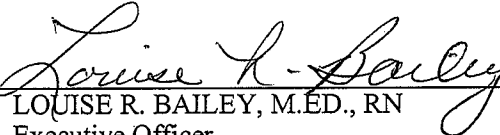
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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 664676, issued to Terry Alan Joiner;
2. Ordering Terry Alan Joiner to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: September 27, 2012

  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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